



महाराष्ट्र शासन राजपत्र

भाग चार-क

वर्ष ३, अंक २२]

गुरुवार ते बुधवार, ऑगस्ट २४-३०, २०१७/भाद्रपद २-८, शके १९३९

[पृष्ठे २०

[किंमत : रुपये ६.००]

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाव्यतिरिक्त इतर वैधानिक प्राधिकाऱ्यांनी तयार केलेले (भाग एक, एक-अ व एक-ल यांमध्ये प्रसिद्ध केलेले वैधानिक नियम व आदेश यांव्यतिरिक्त इतर) वैधानिक नियम व आदेश ; यात भारत सरकार, उच्च न्यायालय, पोलीस आयुक्त, आयुक्त (राज्य उत्पादन शुल्क), जिल्हा दंडाधिकारी व निवडणूक आयोग, निवडणूक न्यायाधिकरण, निवडणूक निर्णय अधिकारी व निवडणूक आयोगाखालील इतर प्राधिकारी यांनी तयार केलेले वैधानिक नियम व आदेश यांचा समावेश होतो.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road,

New Delhi 110 001, dated the 21st July 2017
30 Ashadha, 1939 (Saka)

NOTIFICATION

No. 82/MT-HP/4/2009.— In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission of India hereby publishes the judgment/order dated 23rd August 2016 of the High Court of Judicature at Bombay in Election Petition No. 4 of 2009.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ELECTION PETITION NO. 4 OF 2009.

Dr. Kirti Jayantilal Somaiya

Petitioner.

V/s.

Sanjay Dina Patil

*Respondent.*Ms. Devika Bhosale I/b, M/s. Divya Shah for *Petitioner*

Ms. Tejashri Gawade I/b, M/s. Zohair and Co. for Respondent.

CORAM : G. S. KULKARNI, J. (in Chamber)

Dated : 23rd August 2016.

P.C.

Learned counsel for the petitioner submits that this Election Petition has become infructuous and accordingly prays for withdrawal of the petition.

Allowed to be withdrawn. Dismissed as withdrawn.

G. S. KULKARNI, J.

By Order,

A. N. DAS,

Secretary,

Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड,

नई दिल्ली 110 001, तारीख 21 जुलाई 2017
30 आषाढ, 1939 (शक्)**अधिसूचना**

सं. 82/महा.-लो.स./4/2009.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2009 की निर्वाचन याचिका सं. 4 में मुम्बई उच्च न्यायालय के दिनांक 23 अगस्त 2016 के निर्णय/आदेश को एतद्वारा प्रकाशित करता है ।

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****ELECTION PETITION NO. 4 OF 2009.**

Dr. Kirti Jayantilal Somaiya

*Petitioner.**V/s.*

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G. S. KULKARNI, J.

आदेश से,

ए. एन. दास,

सचिव,

भारत निर्वाचन आयोग।

क्रमांक ईएलआर. २०१७/प्र. क्र. ५७९/१७/३३,

सामान्य प्रशासन विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय विस्तार, मुंबई ४०० ०३२.

दिनांक १४ ऑगस्ट २०१७.

प्रत माहिती व आवश्यक कार्यवाहीस्तव अग्रेषित —

- (१) जिल्हाधिकारी व जिल्हा निवडणूक अधिकारी, पालघर, मुंबई उपनगर.
- (२) निवडणूक निर्णय अधिकारी, भांडूप (प.), मुंबई उपनगर.
- (३) उप जिल्हाधिकारी व उप निवडणूक अधिकारी, मुंबई उपनगर.
- (४) निवड नस्ती.

शिरीष मोहोड,

अवर सचिव व उप मुख्य निवडणूक अधिकारी,
महाराष्ट्र राज्य.

ELECTION COMMISSION OF INDIA

Nirvachan Sadan, Ashoka Road,

New Delhi 110 001, dated the 14th July 2017
23 Ashadha, 1939 (Saka)

NOTIFICATION

No. 82/MT-LA/8/2014 (Nagpur).— In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission of India hereby publishes the Judgment/ order dated 2nd September 2016 of the High Court of Judicature at Bombay, Nagpur Bench, Nagpur in Election Petition No. 8 of 2014.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH : NAGPUR.****ELECTION PETITION No. 8 OF 2014.**

Gajanan S/o. Tukaram Butake, Aged .. Petitioner :
about 38 years, Occu.: Agriculturist,
R/o. Chimur, Tah. Chimur,
Distt. Chandrapur.

Versus

1. Kirtikumar Mitesh Bhangdiya, Bunti .. Respondents :
Bhangdiya (as shown on EVM & in declaration
of final results), Aged about 32 years, Occu:
Business, Government Contractor, R/o. Tilak
Ward, Shivaji Chowk, Main Bazar Road, Chimur,
Tah. and Distt. Chimur.
2. Returning Officer, 074, Chimur Assembly
Constituency & Sub Divisional Officer, Chimur,
Tah. & Distt. Chimur.
3. Election Commission of India, Nirvachan Sadan, *Deleted as per the*
Ashoka Road, New Delhi-100 001 through its *Courts order*
Secretary. *dated 7-5-15.*

Shri M. R. Joharapurkar, Advocate for the petitioner.

Shri Anand Parchure and Shri S. A. Chaudhary, Advocates for the respondent No. 1.
Mrs. Kalyani Deshpande, Asstt. Government Pleader for respondent No. 2.

CORAM : A.S. CHANDURKAR, J.

Dated 2nd September 2016.

ORAL JUDGMENT :

1. This election petition has been filed by the petitioner under Section 80 of the Representation of the People Act, 1951 (for short, the said Act) challenging the election of the respondent No. 1 as a Member of the Legislative Assembly from 074 Chimur constituency.

2. The election of the respondent No. 1 has been challenged principally on the ground that the respondent No. 1 is a Government Contractor undertaking civil contracts and on the date of filing his nomination paper these contracts with the Government were subsisting. According to

the petitioner, the respondent No. 1, therefore, stands disqualified by virtue of provisions of Section 9-A of the said Act. The other ground of challenge is that the respondent No. 1 while submitting his nomination form had filled in the same as per his name appearing in the electoral roll. However, when the results of the election were declared, the name of the returned candidate was shown differently. This according to the petitioner resulted in breach of provisions of Section 33(4) of the said Act. It is on these grounds of the election of the respondent No. 1 was challenged.

In the written statement (Exhibit-11) filed on behalf of the respondent No. 1 it has been pleaded that the contracts in question were with the Vidarbha Irrigation Development Corporation (VIDC) which was not appropriate Government and hence, the respondent No. 1 was not disqualified under provisions of Section 9-A of the said Act. It was also pleaded that the provisions of Section 33(4) of the said Act were not violated as the name of the respondent No. 1 that was shown in the return of election was the name by which he was commonly known. It was, therefore, prayed that the election of the respondent No. 1 did not deserve to be set aside..

3. In the light of the pleadings of the parties, the following issues were framed:

(1) Does the petitioner prove that on the date of filing the nomination, the respondent No. 1 was a Government Contractor and whether there was any subsisting contract on the said date thereby incurring disqualification as contemplated under Section 9A of the Representation of the People Act, 1951 ?

(2) Whether by submitting resignation on 2nd August 2014 to the Registrar of Companies, does the Respondent No. 1 prove that he had no continuing interest in the said Company which had continued the work contracts with Vidarbha Irrigation Development Corporation?

(3) Whether the petitioner proves that the respondent No. 1 was holding any share in Yuwa Shakti Textiles as alleged ?

(4) Whether the petitioner proves that election of respondent No. 1 is vitiated on account of change of his name in the Election Voting Machine and there is any violation of Section 33(4) of the Representation of the People Act, 1951 ?

Thereafter on the application moved by the respondent No. 1 issue No. 5 came to be framed. The same reads thus :

“Does the petitioner prove that Vidarbha Irrigation Development Corporation is “State Government” for the purpose of Section 9-A of the Representation of the People Act, 1951?”

The learned Counsel for the parties submitted that neither the petitioner nor the respondent No. 1 desired to lead evidence on issue No. 5 which was treated to be a preliminary issue.

4. By order dated 11th August 2016, the issue No. 5 was taken up as a preliminary issue and the same was answered against the petitioner by passing the following order:

1. Issue No. 5 has been taken up as a preliminary issue for consideration. The said issue reads as under :-

“Does the petitioner prove that Vidarbha Irrigation Development Corporation is “ State Government ” for the purpose of Section 9-A of the Representation of the People Act, 1951?”

The learned Counsel for the parties on 14th July 2016 submitted that the parties did not intend to lead any evidence on the preliminary issue. Accordingly, they have been heard on the said preliminary issue.

2. Shri M. R. Joharapurkar, the learned Counsel for the petitioner submitted that while considering provisions of Section 9A read with Section 7(a) of the Representation of

the People Act, 1951 (for short, the said Act), it would also be necessary to consider the provisions of the Vidarbha Irrigation Development Corporation Act, 1997 (for short, the Act of 1997). Relying upon the averments made in paragraphs 17 to 20 of the election petition, it was submitted that the State of Maharashtra had, all pervasive control over the affairs of the Vidarbha Irrigation Development Corporation (for short, VIDC). The Minister for Irrigation in the State of Maharashtra was the *ex-officio* Chairman of the VIDC and the employees of the State Government were working on deputation with the VIDC. It was, therefore, urged that considering the object of the provisions of Section 9-A of the said Act and in view of the overall control of the State Government, VIDC would fall within compass of the provisions of Section 9-A of the said Act.

3. Shri Anand Parchure, the learned Counsel along with Shri S.A. Chaudhary, the learned Counsel for the respondent No. 1 submitted that in the present election petition, the election of the respondent No. 1 has been challenged on the ground that the respondent No. 1 was engaged in various works by entering into the contracts with VIDC. It was submitted that in the election petition, the case set up is that in view of the said subsisting contracts between the respondent No. 1 through his firm on one side and the VIDC on the other side results in conflict of duty and interest and is in violation of the provisions of Section 9-A of the said Act. According to the learned Counsel, for the purposes, of attracting any disqualification for having a subsisting contract under Section 9-A of the said Act, such contract has to be with the appropriate Government. Section 7(a) of the said. Act defines the term “appropriate Government” to mean the State Government in the present case. It was urged that the VIDC was a distinct Corporation that was established under the Act of 1997 and the same could not be treated to be the State Government under Section 9-A of the said Act. In support of this submission, the learned Counsel placed reliance upon the judgment of the Hon’ble Supreme Court in Shrikant Vs. Vasantrao and others 2006(2) Mh.L.J. 1. It was submitted that the concept of State under Article 12 of the Constitution of India was distinct from the term “State Government” under the said Act. Hence, it was urged that there was no question of breach of provisions of Section 9-A of the said Act being committed on account of subsisting contracts with VIDC.

4. The provisions of Section 9-A of the said Act have been considered by the Hon’ble Supreme Court in its decision in Shrikant (supra). The facts therein indicate that the returned candidate was a Government contractor who had executed works of the Maharashtra Jeevan Pradhikaran. On that basis, his election came to be challenged. While considering a similar contention that is sought to be raised by the petitioner herein, the Hon’ble Supreme Court in para 19 of its judgment held that while the term “State” may include the State Government as well as statutory or other Authorities for the purposes of Part III of the Constitution of India, the term “State Government” in its ordinary sense would not encompass in its hold either a local or statutory authority. On that basis it was held that the Godawari Marathwada Irrigation Development Corporation which was an authority constituted under the Maharashtra Godawari Marathwada Irrigation Development Corporation Act, 1998, was not “State Government” and, therefore, any contracts with it would not amount to contracts being entered into by the candidate with the appropriate Government.

5. The aforesaid decision of the Hon’ble Supreme Court gives a complete answer to the submission sought to be made on behalf of the petitioner. Identical provisions as found in the Act of 1997 can also be found in the Maharashtra Godawari Marathwada Irrigation

Development Corporation Act, 1998. On that count, therefore, there is no doubt whatsoever in concluding that the VIDC is not the “appropriate Government” for the purposes of attracting disqualification under Section 9-A of the said Act.

6. In view of aforesaid discussion, the preliminary Issue is answered against the petitioner by holding that Vidarbha Irrigation Development Corporation is not “State Government” for the purposes of Section 9-A of the said Act.

5. In view of the answer to the said preliminary issue, Issue Nos. 1 to 3 would not fall for adjudication as their adjudication was dependant on the adjudication of Issue No. 5 in favour of the election petitioner.

6. On 19th August 2016, the learned Counsel for the petitioner submitted that the petitioner did not intend to lead any evidence on issue No.4. Accordingly, the learned Counsel for the parties were heard on issue No. 4.

7. *Issue No. 4 reads thus* :— “Whether the petitioner proves that election of respondent No. 1 is vitiated on account of change of his name in the Election Voting Machine and there is any violation of Section 33(4) of the Representation of the People Act, 1951 ? Shri M.R. Johrapurkar, the learned Counsel for the petitioner submitted that the name of the respondent No. 1 - the returned candidate was shown in the electoral roll as “Bhangadiya Kirtikumar Mitesh”. The returned candidate filled in his nomination form in the same name on 27th August 2014. This nomination paper was accepted. However, when the results of the election from constituency No.74 were declared, the name of the returned candidate was shown as “Banti Bhangdiya”. The name of the returned candidate could not have been different from the name of the said candidate as shown in the electoral roll or as per the nomination form filled in by the said candidate. Reference was made to the provisions of Section 33(4) of the said Act to urge that such change was not permissible. The learned Counsel referred to the averments in paragraph 27 of the election petition. It was, therefore, submitted that on said count, the election of respondent No. 1 was vitiated.

8. Shri Anand Parchure, the learned Counsel for the respondent No. 1 submitted that there was no violation of the provisions of Section 33(4) of the said Act. He submitted that though the respondent No. 1 had submitted his nomination form as per his name appearing in the electoral roll, as the respondent No. 1 was also known as “Banti Bhangadiya” he had made a request to the Returning Officer while submitting his nomination form that his name in the ballot paper should be mentioned as “Banti Bhangadiya”. The nomination form of the respondent No. 1 was duly accepted after which the respondent No. 1 was declared elected. According to the learned Counsel, it was permissible for a candidate to be described by the name by which such candidate was commonly described and the same did not result in vitiating his election. It was, therefore, submitted that the election of the respondent No. 1 could not be declared to be void on that count.

9. I have heard the learned Counsel for the parties and I have considered their respective submissions. It is not in dispute that the respondent No. 1 submitted his nomination form (Exhibit-34) by describing himself as “Bhangadiya Kirtikumar Bhangadiya”. Such name was appearing in the electoral roll. Alongwith the nomination form, a request was made by the respondent No. 1 on 27th September 2014 (Exhibit-41) that his name be shown as “Banti Bhangadiya” in the ballot paper. The nomination form of the respondent No. 1 came to be duly accepted. After the results were declared as per in the return of election, it was shown that “Banti Bhangadiya” had secured the highest number of votes and was declared elected.

10. As per the provisions of Section 33(4) of the said Act, the Returning Officer has to satisfy himself that the name and electoral roll number of the candidate and his proposer as entered in the nomination paper are the same as per the entry in the electoral rolls. However, the full operation of the electoral roll or the nomination paper shall not be affected if the description with regard to the name of a person or place is shown to be such as commonly understood. Further the Returning Officer is permitted to correct any such misnomer or inaccurate description and he can also direct the same to be overlooked.

From the aforesaid provisions, it can be seen that in case a person or place is described in the manner as the same is commonly understood, it shall not affect the full operation of the electoral roll. As per the request made by the respondent No. 1, his name in the ballot paper was shown in the manner by which he was commonly understood. Thus, if the Returning Officer is empowered to overlook the description of a person or place if the same is shown by the name commonly understood, it cannot be said that by permitting the respondent No. 1 to have his name shown in the ballot-paper in the manner in which it was commonly understood, there was any violation of the provisions of Section 33(4) of the said Act. There is no dispute with regard to the identity of the respondent No. 1 nor is it the case that the voters were misled by the use of such commonly understood name. It, therefore, cannot be said that by the description of the returned candidate by the name by which he was commonly understood, the provisions of Section 33(4) of the said Act have been violated. In any event, the election of a returned candidate can be declared to be void under Section 100 (1)(d)(iv) of the said Act, if by virtue of non-compliance of the provisions of the said Act, the result of the election has been, materially affected. Such is not the case sought to be made out by the petitioner.

11. In view of the aforesaid discussion, Issue No. 4 is answered in the negative and against the petitioner. The election of the respondent No. 1 is not vitiated on account of change of his name in the Electronic Voting Machine nor are the provisions of Section 33(4) of the said Act violated.

Thus, from the aforesaid adjudication and as the preliminary issue as well as the issue No. 4 have been answered against the petitioner, it will have to be held that the petitioner has failed in proving that the election of the respondent No. 1 is liable to be set aside in the present election petition that has been filed under Section 80 of the said Act. Accordingly, the election petition stands dismissed in terms of provisions of Section 98(a) of the said Act. In view of provisions of Section 119 proviso to the said Act, the respondent No. 1 would be entitled to costs from the petitioner.

12. In view of aforesaid, the following order is passed :

Order

Election Petition No. 8/2014 stands dismissed. The respondent No. 1 would be entitled to costs from the petitioner. This order be communicated to the Election Commission and the Chairman of the State Legislature as per provisions of Section 103 of the said Act.

A. S. CHANDURKAR J.

By Order,
A. N. DAS,
Secretary,
Election Commission of India.

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड,

नई दिल्ली 110 001, तारीख 14 जुलाई 2017
23 आषाढ़, 1939 (शक्)

अधिसूचना

सं. 82/महा.-वि.स./8/2014 (नागपूर).—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, भारत निर्वाचन आयोग, 2014 की निर्वाचन याचिका सं. 8 में मुम्बई उच्च न्यायालय, नागपूर बेंच, नागपूर के दिनांक 2 सप्टेंबर 2016 के निर्णय/आदेश को एतद्द्वारा प्रकाशित करता है ।

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR.

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Occu.: Business, Government Contractor,
R/o. Tilak Ward, Shivaji Chowk, Main Bazar Road,
Chimur, Tah. and Distt. Chimur.
2. Returning Officer, 074, Chimur Assembly
Constituency and Sub Divisional Officer, Chimur,
Tah. and Distt. Chimur.
3. Election Commission of India, Nirvachan Sadan,
Ashoka Road, New Delhi 100 001 through its
Secretary.

Shri M. R. Johrapurkar, Advocate for the petitioner.

Shri Anand Parchure and Shri S. A. Chaudhary, Advocates for the respondent No. 1.
Mrs. Kalyani Deshpande, Asstt. Government Pleader for respondent No. 2.

CORAM : A.S. CHANDURKAR, J.

Dated 2nd September 2016.

ORAL JUDGMENT :

1. This election petition has been filed by the petitioner under Section 80 of the Representation of the People Act, 1951 (for short, the said Act) challenging the election, of the respondent No. 1 as a Member of the Legislative Assembly from 074 Chimur constituency.

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the petitioner, the respondent No. 1, therefore, stands disqualified by virtue of provisions of Section 9-A of the said Act. The other ground of challenge is that the respondent No. 1 while submitting his nomination form had filled in the same as per his name appearing in the electoral roll. However, when the results of the election were declared, the name of the returned candidate was shown differently. This according to the petitioner resulted in breach of provisions of Section 33(4) of the said Act. It is on these grounds of the election of the respondent No. 1 was challenged.

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3. In the light of the pleadings of the parties, the following issues were framed.

(1) Does the petitioner prove that on the date of filing the nomination, the respondent No. 1 was a Government Contractor and whether there was any subsisting contract on the said date thereby incurring disqualification as contemplated under Section 9A of the Representation of the People Act, 1951 ?

(2) Whether by submitting resignation on dated 2nd August 2014 to the Registrar of Companies, does the Respondent No. 1 prove that he had no continuing interest in the said Company which had continued the work contracts with Vidarbha Irrigation Development Corporation?

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The learned Counsel for the parties on dated 14th July 2016 submitted that the parties did not intend to lead any evidence on the preliminary issue. Accordingly, they have been heard on the said preliminary issue.

2. Shri M. R. Joharapurkar, the learned Counsel for the petitioner submitted that while considering provisions of Section 9A read with Section 7(a) of the Representation of the People Act, 1951 (for short, the said Act), it would also be necessary to consider the provisions of the Vidarbha Irrigation Development Corporation Act, 1997 (for short, the Act of 1997). Relying upon the averments made in paragraphs 17 to 20 of the election petition, it was submitted that the State of Maharashtra had, all pervasive control over the affairs of the Vidarbha Irrigation Development Corporation (for short, VIDC). The Minister for Irrigation in the State of Maharashtra was the *ex-officio* Chairman of the VIDC and the employees of the State Government were working on deputation with the VIDC. It was, therefore, urged that considering the object of the provisions of Section 9-A of the said Act and in view of the overall control of the State Government, VIDC would fall within compass of the provisions of Section 9-A of the said Act.

3. Shri Anand Parchure, the learned Counsel alongwith Shri S. A. Chaudhary, the learned Counsel for the respondent No. 1 submitted that in the present election petition, the election of the respondent No. 1 has been challenged on the ground that the respondent No. 1 was engaged in various works by entering into the contracts with VIDC. It was submitted that in the election petition, the case set up is that in view of the said subsisting contracts between the respondent No. 1 through his firm on one side and the VIDC on the other side results in conflict of duty and interest and is in violation of the provisions of Section 9-A of the said Act. According to the learned Counsel, for the purposes, of attracting any disqualification for having a subsisting contract under Section 9-A of the said Act, such contract has to be with the appropriate Government. Section 7(a) of the said Act defines the term "appropriate Government" to mean the State Government in the present case. It was urged that the VIDC was a distinct Corporation that was established under the Act of 1997 and the same could not be treated to be the State Government under Section 9-A of the said Act. In support of this submission, the learned Counsel placed reliance upon the judgment of the Hon'ble Supreme Court in Shrikant Vs. Vasantrao and others 2006(2) Mh.L.J. 1. It was submitted that the concept of State under Article 12 of the Constitution of India was distinct from the term "State Government" under the said Act. Hence, it was urged that there was no question of breach of provisions of Section 9-A of the said Act being committed on account of subsisting contracts with VIDC.

4. The provisions of Section 9-A of the said Act have been considered by the Hon'ble Supreme Court in its decision in Shrikant (supra). The facts therein indicate that the returned candidate was a Government contractor who had executed works of the Maharashtra Jeevan Pradhikaran. On that basis, his election came to be challenged. While considering a similar contention that is sought to be raised by the petitioner herein, the Hon'ble Supreme Court in para 19 of its judgment held that while the term "State" may include the State Government as well as statutory or other Authorities for the purposes of Part III of the Constitution of India, the term "State Government" in its ordinary sense would not encompass in its hold either a local or statutory authority. On that basis it was held that the Godawari Marathwada Irrigation Development Corporation which was an authority constituted under the Maharashtra Godawari Marathwada Irrigation Development Corporation Act, 1998, was not "State Government" and, therefore, any contracts with it would not amount to contracts being entered into by the candidate with the appropriate Government.

5. The aforesaid decision of the Hon'ble Supreme Court gives a complete answer to the submission sought to be made on behalf of the petitioner. Identical provisions as found in the Act of 1997 can also be found in the Maharashtra Godawari Marathwada Irrigation Development Corporation Act, 1998. On that count, therefore, there is no doubt whatsoever in concluding that the VIDC is not the "appropriate Government" for the purposes of attracting disqualification under Section 9-A of the said Act.

6. In view of aforesaid discussion, the preliminary Issue is answered against the petitioner by holding that Vidarbha Irrigation Development Corporation is not "State Government" for the purposes of Section 9-A of the said Act.

5. In view of the answer to the said preliminary issue, Issue Nos. 1 to 3 would not fall for adjudication as their adjudication was dependant on the adjudication of Issue No. 5 in favour of the election petitioner.

6. On 19th August 2016, the learned Counsel for the petitioner submitted that the petitioner did not intend to lead any evidence on issue No. 4. Accordingly, the learned Counsel for the parties were heard on issue No. 4.

7. *Issue No. 4 reads thus :-* "Whether the petitioner proves that election of respondent No. 1 is vitiated on account of change of his name in the Election Voting Machine and there is any violation of Section 33(4) of the Representation of the People Act, 1951 ? Shri M. R. Johrapurkar, the learned Counsel for the petitioner submitted that the name of the respondent No. 1 - the returned candidate was shown in the electoral roll as "Bhangadiya Kirtikumar Mitesh". The returned candidate filled in his nomination form in the same name on 27th August 2014. This nomination paper was accepted. However, when the results of the election from constituency No. 74 were declared, the name of the returned candidate was shown as "Banti Bhangdiya". The name of the returned candidate could not have been different from the name of the said candidate as shown in the electoral roll or as per the nomination form filled in by the said candidate. Reference was made to the provisions of Section 33(4) of the said Act to urge that such change was not permissible. The learned Counsel referred to the averments in paragraph 27 of the election petition. It was, therefore, submitted that on said count, the election of respondent No. 1 was vitiated.

8. Shri Anand Parchure, the learned Counsel for the respondent No. 1 submitted that there was no violation of the provisions of Section 33(4) of the said Act. He submitted that though the respondent No. 1 had submitted his nomination form as per his name appearing in the electoral roll, as the respondent No. 1 was also known as "Banti Bhangadiya" he had made a request to the Returning Officer while submitting his nomination form that his name in the ballot paper should be mentioned as "Banti Bhangadiya". The nomination form of the respondent No. 1 was duly accepted after which the respondent No. 1 was declared elected. According to the learned Counsel, it was permissible for a candidate to be described by the name by which such candidate was commonly described and the same did not result in vitiating his election. It was, therefore, submitted that the election of the respondent No. 1 could not be declared to be void on that count.

9. I have heard the learned Counsel for the parties and I have considered their respective submissions. It is not in dispute that the respondent No. 1 submitted his nomination form (Exhibit-34) by describing himself as "Bhangadiya Kirtikumar Bhangadiya". Such name was appearing in the electoral roll. Alongwith the nomination form, a request was made by the respondent No. 1 on 27th September 2014 (Exhibit-41) that his name be shown as "Banti Bhangadiya" in the ballot paper. The nomination form of the respondent No. 1 came to be duly accepted. After the results were declared as per in the return of election, it was shown that "Banti Bhangadiya" had secured the highest number of votes and was declared elected.

10. As per the provisions of Section 33(4) of the said Act, the Returning Officer has to satisfy himself that the name and electoral roll number of the candidate and his proposer as entered in the nomination paper are the same as per the entry in the electoral rolls. However, the full operation of the electoral roll or the nomination paper shall not be affected if the description with regard to the name of a person or place is shown to be such as commonly understood. Further the Returning Officer is permitted to correct any such misnomer or inaccurate description and he can also direct the same to be overlooked.

From the aforesaid provisions, it can be seen that in case a person or place is described in the manner as the same is commonly understood, it shall not affect the full operation of the electoral roll. As per the request made by the respondent No. 1, his name in the ballot paper was shown in the manner by which he was commonly understood. Thus, if the Returning Officer is empowered to overlook the description of a person or place if the same is shown by the name commonly understood, it cannot be said that by permitting the respondent No. 1 to have his name shown in the ballot-paper in the manner in which it was commonly understood, there was any violation of the provisions of Section 33(4) of the said Act. There is no dispute with regard to the identity of the respondent No. 1 nor is it the case that the voters were misled by the use of such commonly understood name. It, therefore, cannot be said that by the description of the returned candidate by the name by which he was commonly understood, the provisions of Section 33(4) of the said Act have been violated. In any event, the election of a returned candidate can be declared to be void under Section 100 (1)(d)(iv) of the said Act, if by virtue of non-compliance of the provisions of the said Act, the result of the election has been, materially affected. Such is not the case sought to be made out by the petitioner.

11. In view of the aforesaid discussion, Issue No. 4 is answered in the negative and against the petitioner. The election of the respondent No. 1 is not vitiated on account of change of his name in the Electronic Voting Machine nor are the provisions of Section 33(4) of the said Act violated.

Thus, from the aforesaid adjudication and as the preliminary issue as well as the issue No. 4 have been answered against the petitioner, it will have to be held that the petitioner has failed in proving that the election of the respondent No. 1 is liable to be set aside in the present election petition that has been filed under section 80 of the said Act. Accordingly, the election petition stands dismissed in terms of provisions of Section 98(a) of the said Act. In view of provisions of Section 119 proviso to the said Act, the respondent No. 1 would be entitled to costs from the petitioner.

12. In view of aforesaid, the following order is passed :

Order

Election Petition No. 8/2014 stands dismissed. The respondent No. 1 would be entitled to costs from the petitioner. This order be communicated to the Election Commission and the Chairman of the State Legislature as per provisions of Section 103 of the said Act.

A. S. CHANDURKAR J.

आदेश से,

ए. एन. दास,

सचिव,

भारत निर्वाचन आयोग।

क्रमांक ईएलआर. २०१७/प्र. क्र. ५५४/१७/३३.

सामान्य प्रशासन विभाग

मादाम कामा मार्ग, हुतात्मा राजगुरु चौक,
मंत्रालय विस्तार, मुंबई ४०० ०३२.

दिनांक १४ ऑगस्ट २०१७.

प्रत माहिती व आवश्यक कार्यवाहीस्तव अग्रेषित —

- (१) जिल्हाधिकारी व जिल्हा निवडणूक अधिकारी, चंद्रपूर.
- (२) निवडणूक निर्णय अधिकारी, चिमूर, चंद्रपूर.
- (३) उप जिल्हाधिकारी व उप निवडणूक अधिकारी, चंद्रपूर.
- (४) निवडनस्ती.

शिरीष मोहोड,

अवर सचिव व उप मुख्य निवडणूक अधिकारी,
महाराष्ट्र राज्य.

नियंत्रक, शिधावाटप व संचालक, नागरी पुरवठा यांचे कार्यालय

रॉयल इन्शुरन्स इमारत, ५वा मजला, १४, जमशेटजी टाटा रोड,

चर्चगेट, मुंबई ४०० ०२०, दिनांक ७ ऑगस्ट २०१७

- वाचा.**—(१) क्र. निशि/केरो/२०१७/प्र.क्र. १२/सहा/जा. २९०, दिनांक १७ जुलै २०१७
 (२) शासन पत्र क्रमांक रॉकेल-२०१७/प्र.क्र. ६७/ना.पु.२७, दिनांक ५ ऑगस्ट २०१७
 (३) दि. केरोसीन (रेस्ट्रीक्शन ऑन यूज अँड फिक्सेशन ऑफ सिलिंग प्राईस) ऑर्डर, १९९३.

अधिसूचना

क्रमांक निशि./केरो./२०१७/प्र. क्र. १२/सहा/जा. ३१९.—ज्याअर्थी, सार्वजनिक वितरण व्यवस्थेमधील एक्स डेपो दरामध्ये दिनांक १ ऑगस्ट २०१७ पासून सुधारणा केलेली असल्याचे राज्यस्तरीय समन्वयक, तेल उद्योग, महाराष्ट्र, मुंबई यांनी १ ऑगस्ट २०१७ रोजीच्या ई-मेल संदेशाद्वारे शासनास कळविले आहे. त्या अनुषंगाने सुधारित एक्स डेपो दराचा तक्ता उपरोक्त वाचा. क्र. २ सोबत पाठवून, सदर सुधारित एक्स डेपो दराच्या अनुषंगाने सार्वजनिक वितरण व्यवस्थेतर्गत वितरित करण्यात येणाऱ्या केरोसीनचे घाऊक व किरकोळ विक्री दर निश्चित करून त्याबाबत तात्काळ आदेश निर्गमित करावे असे शासनाने कळविले आहे.

त्याअर्थी, वाचा क्र. ३ मध्ये नमूद आदेशान्वये मला प्रदान केलेल्या अधिकारानुसार मी, दिलिप शिंदे, नियंत्रक, शिधावाटप व संचालक नागरी पुरवठा, मुंबई, मुंबई शहर शिधावाटप क्षेत्रातील (मुंबई शहर व मुंबई उपनगर) केरोसीनच्या घरगुती वापराचे घाऊक व किरकोळ विक्रीचे दर पुढील आदेश होईपर्यंत तात्काळ अंमलात आणणेकरिता पुढीलप्रमाणे अधिसूचित करीत आहे :—

अ. क्र.	बाब	सध्याचा दर (प्रति कि. लि.) रुपये	सुधारित दर (प्रति कि. लि.) रुपये
(१)	(२)	(३)	(४)
ए	एक्स डेपो दर (रुपये प्रति कि. लि.)	१८६५८.००	१८९०८.००
बी	वस्तू व सेवा कर (जी.एस.टी) @ ५%	९३२.९०	९४५.४०
सी	घाऊक विक्रेत्यांसाठी एकूण खरेदी किंमत [ए+बी]	१९५९०.९०	१९८५३.४०
डी	(i) घाऊक विक्रेत्याचे कमिशन	७८७.८२	७८७.८२
	(ii) तापमान बदलामुळे येणाऱ्या घटीच्या व हाताळणूक तुटीच्या प्रतिपूर्तीसाठी असाधारण भत्ता.	९९.००	९९.००
	(iii) (A) वाहतूक खर्च	२८०.७९	२८०.७९
	(B) डिझेलव्यतिरिक्त अनुषंगिक बाबींचा खर्च	७०.२०	७०.२०
	(C) डिझेलवरील खर्चात झालेली वाढ	३५.८१	३५.८१
	एकूण वाहतूक खर्च (A+B+C)	३८६.८०	३८६.८०
	(iv) पथ कर (Toll Tax)	७०.००	७०.००
	(v) घाऊक वितरकांना पुर्णाकाचा लाभ	५.५२	३.१४
	(vi) एकूण किंमत वाढ-[डी(i) + डी(ii) + डी(iii) + डी(iv) + डी(v)]	१३४९.१४	१३४६.७६
इ	एकूण किंमत वाढीवर, वस्तू व सेवा कर (जी.एस.टी) @ ५% [डी(vi) च्या ५%].	६७.४६	६७.३४
एफ	एकूण [सी+डी (vi)+इ] घाऊक विक्रीचा दर	२१००७.५०	२१२६७.५०

(१)	(२)	(३)	(४)
एफ-१ किरकोळ विक्रेत्यासाठी खरेदी किंमत	२१००७.५०** (किंमत रुपये २०००७.१४+ वस्तू व सेवा कर रुपये १०००.३६)	२१२६७.५०** (किंमत रुपये २०२५४.७६+ वस्तू व सेवा कर रुपये १०१२.७४)	
जी किरकोळ विक्रेत्याचे कमिशन (तुटीच्या लाभांसह)	४५०.००	४५०.००	
एच किरकोळ विक्रेत्याचे कमिशन (तुटीच्या लाभांसह) वर टक्के वस्तू व सेवा कर (जी.एस.टी) (जी च्या ५ टक्के)	२२.५०	२२.५०	
आय किरकोळ विक्री दर (रुपये प्रति किलो लिटर)	२१४८०.००** (किंमत रुपये २०४५७.१४+ वस्तू व सेवा कर रुपये १०२२.८६)	२१७४०.००** (किंमत रुपये २०७०४.७६+ वस्तू व सेवा कर रुपये १०३५.२४)	
जे किरकोळ विक्री दर (रुपये प्रति लिटर)	२१.४८	२१.७४	

शासन परिपत्रक क्र. अन्न, नागरी पुरवठा व ग्राहक संरक्षण विभाग, क्रमांक केईआर. १३७६/३७६९/सतरा, दिनांक १७ डिसेंबर १९७६ नुसार पूर्णाकाचा लाभ एकाच पातळीवर (घाऊक वितरक) घाऊक दरामध्ये समाविष्ट करण्यात आला आहे.

दिलीप शिंदे,

नियंत्रक,

शिधावाटप व संचालक, नागरी पुरवठा, मुंबई.

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Govt. Barrack Nos. 3 and 4, Free Press, Journal Marg,
Nariman Point, Mumbai 400 021, dated 16th August 2017.

Read.—(1) Section 8, clause (a) of the Administrative Tribunals Act, 1985.

(2) Submission made to his Lordship Hon'ble Chairman, M.A.T., Mumbai and its approval dated 16th August 2017.

NOTIFICATION

No. MAT/MUM/ESTT/3187/2017.—(a) By virtue of the powers vested in him *vide* Section 12 of the Administrative Tribunals Act, 1985 and rule 4 of the Maharashtra Administrative Tribunals (Financial and Administrative Power), Rules, 1991 as amended from time to time, his Lordship Justice Shri A. H. Joshi, Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai is pleased to notify that Shri Rajiv Agarwal, Hon'ble Vice-chairman, Maharashtra Administrative Tribunal, Mumbai shall lay down office on 19th August 2017 (A.O.H.) on attaining the age of superannuation *i.e.* 65 years as per Section 8, clause (a) of the Administrative Tribunals Act, 1985.

(b) Issued by the order and in the name of his Lordship Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai.

S. K. JOSHI,

Registrar (Principal Bench),
Maharashtra Administrative
Tribunal, Mumbai.

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Government Barrack Nos. 3 and 4, Free Press Journal Marg,
Opp. Mantralaya, Mumbai 400 021.

Sub.—Regularization of Promotion of Smt. P. S. Zadkar, as Deputy Registrar, Maharashtra Administrative Tribunal, Mumbai.

Ref.—(1) Maharashtra Administrative Tribunal (Financial and Administrative Powers) Rules, 1991 as amended from time to time.

(2) Recruitment Rules, framed *vide* Notification No. MAT-1097/C.R. 94/38 dated 15th March 2001.

(3) Recruitment Rules amended *vide* Notification No. MAT-2414/C.R. 46/38 dated 15th September 2015.

(4) Submission made to the Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai and its approval dated 11th April 2016.

(5) This office order No. MAT/ESTT/1301/2016, dated 12th April 2016.

(6) Government Order issued by G.A.D. No. मप्रन्या-२०१६/प्र.क्र. ७०/का. ३८, दिनांक १६ सप्टेंबर २०१६ व ३१ मार्च २०१७.

NOTIFICATION

No. MAT/MUM/ESTT/3182/2017.—Whereas Smt. P. S. Zadkar, has been promoted as Deputy Registrar, Maharashtra Administrative Tribunal, Mumbai by the Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai *vide* office order No. MAT/ESTT/1301/2016, dated 12th April 2016.

And whereas Smt. P. S. Zadkar, is promoted as Deputy Registrar, Maharashtra Administrative Tribunal, Mumbai by Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai on *ad-hoc and temporary* basis.

And whereas Smt. P. S. Zadkar, has taken charge of her post as Deputy Registrar, M.A.T. Mumbai *w.e.f.* 12th April 2016.

And whereas the Promotion of Smt. P. S. Zadkar, has been regularized by Government of Maharashtra in General Administration Department *vide* order No. मप्रन्या-२०१६/प्र.क्र. ७०/का. ३८, दिनांक १६ सप्टेंबर २०१६ व ३१ मार्च २०१७ making it clear that she was promoted as Deputy Registrar, Maharashtra Administrative Tribunal, Mumbai *w.e.f.* 12th April 2016.

And whereas Smt. P. S. Zadkar, is posted on promotion on the clear and vacant post of Deputy Registrar at Maharashtra Administrative Tribunal, Mumbai.

And whereas the post of Deputy Registrar comes in the category of Class-I, *Gazetted* post and therefore, while making regularization on the post of Deputy Registrar, the regularization order is required to be published in *Maharashtra Government Gazette*, Part IV-C.

Therefore, in exercise of the powers vested in me *vide* section 12 of the Maharashtra Administrative Tribunal Act, 1985 and rule 4 of the Maharashtra Administrative Tribunal (Financial and Administrative powers) Rules, 1991 as amended from time to time, and Government of Maharashtra in G.A.D. Order No. मप्रन्या-२०१६/प्र.क्र. ७०/का. ३८, दिनांक १६ सप्टेंबर २०१६ व ३१ मार्च २०१७ I, Justice Ambadas H. Joshi, Chairman, Maharashtra Administrative Tribunal, Mumbai hereby by this Notification publish that the promotion of Smt. P. S. Zadkar, on the post of Deputy Registrar, Maharashtra Administrative Tribunal, Mumbai is regularized from the date she has taken charge of her promotional post *i.e.*, *w.e.f.* 12th April 2016, Smt. P. S. Zadkar, is posted at Mumbai Bench as Deputy Registrar, Maharashtra Administrative Tribunal, Mumbai *w.e.f.* 12th April 2016.

A. H. JOSHI, J.

Chairman,
Maharashtra Administrative
Tribunal, Mumbai.

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Government Barrack Nos. 3 and 4, Free Press Journal Marg,
Opp. Mantralaya, Mumbai 400 021.

Sub.—Regularization of Promotion of Shri A. K. Nair, as Senior Personal Assistant, Maharashtra Administrative Tribunal, Mumbai.

Ref.—(1) Maharashtra Administrative Tribunal (Financial and Administrative Powers) Rules, 1991 as amended from time to time.

(2) Submission made to the Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai and its approval dated 11th April 2016.

(3) This office order No. MAT/ESTT/1302/2016, dated 12th April 2016.

(4) Government Order issued by G.A.D. No. मप्रन्या-२०१६/प्र.क्र. ७१/का. ३८, दिनांक १६ सप्टेंबर २०१६ व ३१ मार्च २०१७.

NOTIFICATION

No. MAT/MUM/ESTT/3185/2017.—Whereas Shri A. K. Nair, has been promoted as Senior Personal Assistant, Maharashtra Administrative Tribunal, Mumbai by the Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai *vide* office order No. MAT/ESTT/1302/2016, dated 12th April 2016.

And whereas Shri A. K. Nair, is promoted as Senior Personal Assistant, Maharashtra Administrative Tribunal, Mumbai by Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai on *ad-hoc and temporary* basis.

And whereas Shri A. K. Nair, has taken charge of his post as Senior Personal Assistant, M.A.T. Mumbai *w.e.f.* 12th April 2016.

And whereas the Promotion of Senior Personal Assistant, has been regularized by Government of Maharashtra in General Administration Department *vide* order No. मप्रन्या-२०१६/प्र.क्र. ७१/का. ३८, दिनांक १६ सप्टेंबर २०१६ व ३१ मार्च २०१७ making it clear that he was promoted as Senior Personal Assistant, Maharashtra Administrative Tribunal, Mumbai *w.e.f.* 12th April 2016.

And whereas Shri A. K. Nair, is posted on promotion on the clear and vacant post of Senior Personal Assistant, at Maharashtra Administrative Tribunal, Mumbai.

And whereas the post of Senior Personal Assistant, comes in the category of Class-I, *Gazetted* post and therefore, while making regularization on the post of Senior Personal Assistant, the regularization order is required to be published in *Maharashtra Government Gazette*, Part IV-C.

Therefore, in exercise of the powers vested in me *vide* section 12 of the Maharashtra Administrative Tribunal Act, 1985 and rule 4 of the Maharashtra Administrative Tribunal (Financial and Administrative powers) Rules, 1991 as amended from time to time, and Government of Maharashtra in G.A.D. Order No. मप्रन्या-२०१६/प्र.क्र. ७१/का. ३८, दिनांक १६ सप्टेंबर २०१६ व ३१ मार्च २०१७ I, Justice Ambadas H. Joshi, Chairman, Maharashtra Administrative Tribunal Mumbai hereby by this Notification publish that the promotion of Shri. A. K. Nair, on the post of Senior Personal Assistant, Maharashtra Administrative Tribunal, Mumbai is regularized from the date he has taken charge of his promotional post *i.e. w.e.f.* 12th April 2016, Shri A. K. Nair, is posted at Mumbai Bench as Senior Personal Assistant, Maharashtra Administrative Tribunal, Mumbai *w.e.f.* 12th April 2016.

A. H. JOSHI, J.

Chairman,
Maharashtra Administrative
Tribunal, Mumbai.

MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI

Govt. Barrack Nos. 3 and 4, Free Press, Journal Marg,
Opp. Mantralaya, Mumbai 400 021

Sub.—Regularization of Promotion of Shri S. G. Jawalkar, as Personal Assistant,
Maharashtra Administrative Tribunal, Mumbai.

Ref.—(1) Maharashtra Administrative Tribunal (Financial and Administrative Powers)
Rules, 1991 as amended from time to time.

(2) Submission made to the Hon'ble Chairman, Maharashtra, Administrative
Tribunal, Mumbai and its approval dated 6th June 2016.

(3) This office order No. MAT/ESTT/1835/2016, dated 7th June 2016.

NOTIFICATION

No. MAT/MUM/ESTT/3186/2017.—Whereas, Shri S. G. Jawalkar, has been promoted as Personal Assistant, Maharashtra Administrative Tribunal, Mumbai by the Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai *vide* office order No. MAT/ESTT/1835/2016, dated 7th June 2016.

And whereas Shri S. G. Jawalkar, is promoted as Personal Assistant, Maharashtra Administrative Tribunal, Mumbai by Hon'ble Chairman, Maharashtra Administrative Tribunal, Mumbai on *ad hoc and temporary* basis.

And whereas Shri S. G. Jawalkar, has taken charge of his post as Personal Assistant, M.A.T., Mumbai *w.e.f.* 1st June 2016.

And whereas Shri S. G. Jawalkar, is posted on promotion on the clear and vacant post of Personal Assistant, at Maharashtra Administrative Tribunal, Mumbai.

And whereas the post of Personal Assistant, comes in the category of Class-II, Gazetted post and therefore, while making regularization on the post of Personal Assistant, the regularization order is required to be published in *Maharashtra Government Gazette*, Part IV-C.

Therefore, in exercise of the powers vested in me *vide* section 12 of the Administrative Tribunal Act, 1985 and rule 4 of the Maharashtra Administrative Tribunal (Financial and Administrative Powers) Rules, 1991 as amended from time to time, I, Justice Ambadas H. Joshi, Chairman, Maharashtra Administrative Tribunal Mumbai hereby this Notification publish that the promotion of Shri S. G. Jawalkar, on the post of Personal Assistant, Maharashtra Administrative Tribunal, Mumbai is regularized from the date he has taken charge of his promotional post *i.e. w.e.f.* 1st June 2016, Shri S. G. Jawalkar is posted at Mumbai Bench as Personal Assistant, Maharashtra Administrative Tribunal, Mumbai *w.e.f.* 1st June 2016.

A. H. JOSHI, J.

Chairman,
Maharashtra Administrative
Tribunal, Mumbai.